

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
AND
THE UNIVERSITY OF NEW MEXICO
CONCERNING
THE CENTER FOR ISOTOPES IN MEDICINE

This Memorandum Of Understanding (MOU) sets forth certain understandings between the Regents of the University of California, (UC) operators of the Los Alamos National Laboratory, for the Department of Energy, National Nuclear Security Administration (DOE/NNSA) under Contract No. W-7405-ENG-36, and the Regents of the University of New Mexico (UNM), herein after referred to as the Parties, regarding activities in the Center for Isotopes in Medicine (CIM).

WHEREAS, UC operates the Isotope Production Facility and other facilities at Los Alamos National Laboratory for the production and processing of radioactive and stable isotopes and performs research in the production, processing and use of isotopes;

WHEREAS, UC desires collaborations with a partner who can develop and test new pharmaceuticals to use isotopes and new radiopharmaceuticals produced at LANL, enhancement of the NM economy through new startups commercializing radioisotopes and new pharmaceuticals, workforce development through the training of new radiochemists at BS, MS and PhD levels, expansion of the LANL isotope program through development of new radiochemistry and fundamental research in radiochemistry, and a partner for work in radiation and nuclear threat with an emphasis on biological issues associated with such a weapon;

WHEREAS, UNM, through the College of Pharmacy, Cancer Treatment Center, School of Medicine, and other branches of the Health Sciences Center and the Department of Chemistry performs research in the development and application of radioisotopes and pharmaceuticals in the study, diagnosis and treatment of cancer and other diseases;

WHEREAS, UNM desires collaborations with a partner to develop new study, diagnostics and treatment options for human disease, joint appointments of faculty with UC employees at LANL, expansion and upgrade of the radiopharmacy program at UNM, New Mexico economic development based on new pharmaceuticals and radiochemistry and jobs and research positions in NM for graduates and students;

WHEREAS, The Parties previously have agreed, in MOU-04-49 to general guidelines for addressing intellectual property developed outside other agreements and UC has also established a joint licensing agreement with the Science and Technology Corporation @

UNM ("STC"), which was established to commercialize UNM intellectual property, on the roles of the Parties in commercializing intellectual property developed by Parties; and

WHEREAS, the Parties desire to collaborate to leverage the research programs, expertise and facilities to accelerate the development and application of radioisotopes in medicine and to form the basis of new and expanded companies in New Mexico.

NOW, THEREFORE, IT IS AGREED:

1. Scope. The Center for Isotopes in Medicine (CIM) will be established at UNM. The CIM will facilitate joint research between the Parties, capture of new funding for the development and application of isotopes in medical applications, and transfer of the results to commercial application with a focus on New Mexico businesses.
2. Implementation. Research projects will be implemented through such additional agreements as the Parties may negotiate and approve in the future. Such agreements may be procurements for services or materials, Cooperative Research and Development Agreements, Work for Others/Sponsored Research or cost reimbursement under an approved Joint Appointment Program.
3. Proprietary Information. If the Parties desire to share proprietary information such as unpublished invention disclosures, patent applications, research funding proposals or research results, they will implement either approved collaborative research agreements or a proprietary information agreement.
4. Program Administration
 - a. UNM and UC shall each appoint three (3) individuals to a Steering Committee to oversee the collaborative MOU activities. The UNM appointed Steering Committee members shall be Vice Presidents, Vice Provost, College Deans or Department Chairman, and the UC appointed members shall be Division Directors, Program Directors, Program Managers, or others with delegated authority. The initial Steering Committee members comprise the following individuals from each Party:

<u>UNM</u>	<u>UC</u>
CIM Executive Director (or his/her designee)	Isotope Program Manager
Dean of the College of Pharmacy	Technology Transfer Division
Executive Vice President for Health Sciences	NIH Program Manager

- b. Upon the agreement of the Parties, officials of other organizations committed to furthering the goals of this MOU may be appointed to the Steering Committee. Such organizations may include other not-for-profit or for-profit research entities, for-profit businesses or Universities.

- c. The Steering Committee shall be responsible for setting direction, monitoring progress, establishing metrics for and assessing Program success, and resolving conflicts between the Parties. To this end, the Steering Committee will meet to establish joint written research and development plans, metrics for success, and status reports at least semi-annually, or at a frequency mutually agreed by the active Steering Committee members. The Steering Committee will provide direction on the involvement of third parties and foreign nationals in projects developed between UNM and UC. Either Party, in its sole discretion, may replace any of its members of the Steering Committee at any time with advance written notice to the other Party.
 - d. The CIM Executive Director will chair the Steering Committee and be responsible for the following: (i) that the planned activities in each of the programs are carried out to completion, (ii) preparing the results from each milestone for presentation to the Steering Committee on a quarterly basis, and (iii) that each program meets the expectations of both Parties in a timely manner.
5. Dispute Resolution. If UNM and UC are unable to agree or resolve disputes through the Steering Committee then such disputed issues shall be resolved through good faith negotiations between the designated officials at the respective institutions.. While generally, as stated in Article 5 of MOU-04-49 disputes that the Steering Committee cannot resolve are referred to the UNM Provost and the LANL Deputy Director for Science and Technology, in the case of disputes arising under this MOU such disputes shall instead be referred to the Executive Vice President for Health Sciences and LANL Associate Director Strategic Research. Their mutual decision shall be rendered within 30 days after referral to them. In the unlikely event that they are unable to reach a mutually acceptable decision, the matter will be elevated to the UNM President and the Laboratory Director for a final decision. In the unlikely event that the UNM President and the Laboratory Directory are unable to reach a mutually acceptable decision concerning the dispute in question, and either party believes, in good faith, that such failure is material to subject matter of this MOU and the CIM, then either of the parties shall have the right, upon 60 days' prior written notice to the other party, to terminate this MOU.
 6. Costs. Each Party shall be responsible its own costs unless other arrangements are made through such future agreement as may be approved by each party. Such agreements may be procurements of services or materials, Cooperative Research and Development Agreements, Work for Others/Sponsored Research or cost reimbursement under an approved Joint Appointment Program. To the extent that funds are available under the Joint Science and Technology Laboratory Agreement between the Parties, the Parties agree that Principal Investigators with research applicable to the CIM may apply for funding under the Bioscience Research Area.
 7. Contracts with Third Parties. It is recognized that either Party may be actively engaged in working with third parties to conduct research involving technology and intellectual property within the Scope of this MOU. For example, UC may issue a CRADA to a company, or

UNM may obtain a sponsored research contract from a company, to develop an invention that was created jointly by UC and UNM employees. The parties shall exercise best efforts to identify contractual commitments involving or building upon jointly owned background intellectual property (including options to negotiate a license on future inventions building upon such background technology), and shall, before entering into such agreements, consult with the other party to make sure that ongoing research and commercialization efforts are coordinated.

8. Representations. Each Party represents that it has full power and authority to agree, subject to DOE/NNSA requirements and waivers and all prior agreements and understandings both between the parties and between either Party and STC, with the other Party about how inventions subject to this MOU are protected and commercialized and how any income from licensing such inventions shall be shared by the Parties.
9. Agency. Neither of the Parties hereto, nor any of their respective employees, shall be construed to be the agent, employer or representative of the other, nor will either Party have an expressed or implied right of authority to assume or create any obligation or responsibility on behalf of or in the name of the other Party. In no event shall this MOU be construed to establish a partnership, joint venture, or other similar relationship between the Parties, and nothing contained herein shall authorize either Party to act as an agent for the other.
10. No Third Party Rights. Nothing in this MOU, express or implied, is intended to confer any rights, remedies, claims, or interests upon a person not a party hereto.
11. Term and Termination. Either Party may terminate this MOU upon 60 days' prior written notice to the other party. This MOU shall become effective from and after the date on which all of the Parties have executed this MOU and shall continue in effect until June 30, 2010. Any research or other agreements reached by the parties to facilitate or implement research shall survive such termination or expiration.
12. Separate Agreements. With respect to inventions and works of authorship arising under any research project carried on under a separate agreement between the Parties, such as a CRADA, WFO, or lease agreements for laboratory equipment, material and facilities, it is explicitly understood that the terms of such future agreements relating to inventions and works of authorship shall, to the extent inconsistent herewith, supersede the terms herein.
13. Claims. Each Party shall be responsible for claims and demands arising under the MOU in proportion to its fault in the events giving rise to such claims and demands, as determined by the law and judicial precedent and as limited by any federal or state law applicable to one or the other of the Parties. More specifically, the liability of UNM will be subject in all cases to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1 *et seq.*, NMSA 1978, as amended.
14. Entire Agreement. This MOU (in conjunction with MOU-04-49) constitutes the full and final understanding of the parties on all subjects contained within it. All prior negotiations,

understandings, and agreements (with the exception of MOU-04-49) are merged into this MOU. No subsequent understanding or agreement may modify this MOU unless it is in writing and signed by the Parties or their authorized agents.

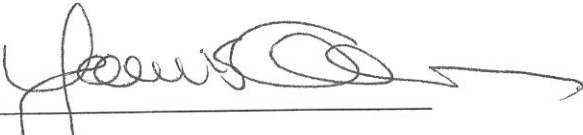
15. Notices. Any notice required to be given pursuant to the provisions of this MOU will be in writing and will be sent by certified United States mail, return receipt requested, postage prepaid, addressed as follows:

If, to UNM: Associate Controller
UNM Health Sciences Center
Controller's Office
MSOP 5220
1 University of New Mexico
Albuquerque, New Mexico 87131-0001

If, to UC: Division Leader
Technology Transfer
MS C334
Los Alamos National Laboratory
Los Alamos, NM 87545

The parties have each signed this MOU indicating their agreement with these terms.

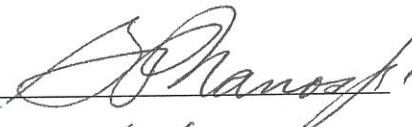
**THE REGENTS OF THE UNIVERSITY
OF NEW MEXICO**

by: 
Date: 3/8/05

Name: Louis Caldera

Title: President

**THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA**

by: 
Date: 3/8/05

Name: G. Peter Nanos

Title: Director

Witnessed

By: 
Governor Bill Richardson